UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,084	06/29/2001	Jason Benfield	AUS920010375US1	6717

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EXAMINER
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ART UNIT	PAPER NUMBER
2457	

NOTIFICATION DATE	DELIVERY MODE
04/14/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 September 2006*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-30* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This office action is responsive to communication filed on 09/26/2006.

Response to Amendment

The Examiner has acknowledged Applicant's argument.

Response to Arguments

Applicant's arguments with respect to claims 1 - 30 have been considered but are

moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 11 – 12, 14 – 15, 17, 19 - 20 are rejected under 35 U.S.C. 112, second

paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention. The claims recite the following

means (or step) plus function limitations:

"means for representing ----";

"means for associating ----";

"means for managing ----"

"means for allowing ----" (claim 11)

"means for dynamically reconfiguring ----" (claim 12)

"means for dynamically discovering ---"

"means for correspondingly representing ----"

"means for logically organizing ----" (claim 17)

"means for determining ---" (claim 19)

"means for limiting ---- (claim 20).

These limitations invoke 35 USC § 112, ¶ 6 because they meet the 3-prong

analysis set forth in MPEP 2181 as they recite the phrase "means for" or "step for" ()

and the phrase is modified by functional language and it is not modified by sufficient

structure, material, or acts for performing the recited function. Also see Altiris Inc. v.

Semantec Corp., 318 F.3d 1363, 1375 (Fed. Cir. 2003). 35 USC § 112, 1[6, requires

such claim to be construed to cover the corresponding structure, material, or acts

described in the specification and equivalents thereof. "If one employs means plus

function language in a claim, one must set forth in the specification an adequate

disclosure showing what is meant by that language. If an applicant fails to set forth an

adequate disclosure, the applicant has in effect failed to particularly point out and

distinctly claim the invention as required by the second paragraph of section § 112." In

re Donaldson Co., 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.).

For a computer-implemented means-plus-function claim limitation that invokes 35 USC

§ 112, 1[6, the corresponding structure is required to be more than simply a general

purpose computer. Aristocrat Technologies, Inc. v. International Game Technology, 521

F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding

structure for a computer-implemented function must include the algorithm as well as the

general purpose computer. WMS Gaming, Inc. v. International Game Technology, 184

F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least

disclose the algorithm that transforms the general purpose microprocessor to a special

purpose computer programmed to perform the claimed function. Aristocrat, 521 F.3d at

1338, 86 USPQ2d at 1242.

Claims 13, 16, and 18 are necessarily rejected as being dependent upon the

rejection of claim 11.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

Claim 21 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. Based on Applicants' disclosure (paragraph

[0228]), it is found that the "computer readable medium" covers both forms of non-

transitory media and transitory propagating signals per se. Thus, claim 21 non-statutory

at least for the reasons that they include, as a whole, a "signal" that does not fall into

any statutory category of invention under 35 U.S.C. 101 and non-functional printed

matter in the form of a "literary work ".

It is suggested to amend the claim as follows: A "**non-transitory computer**

readable medium "--- in order to direct the claims to statutory subject matter. Also the

computer program product needs to be **stored** on the medium.

Claims 22 – 30 are necessarily rejected as being dependent upon the rejection of

claim 21.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the
United States before the invention thereof by the applicant for patent, or on an international application
by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this
title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act

of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior

to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 – 6, 11 – 16, and 21 - 26 are rejected under 35 U.S.C. 102(e) as being

anticipated by Rochford et al (US 6,663,312; hereinafter Rochford).

Regarding claim 1, Rochford discloses a method for management of a distributed

data processing system, wherein the distributed data processing system is managed on

behalf of a plurality of management customers, the method comprising:

representing the distributed data processing system as a set of scopes, wherein

a scope comprises a logical organization of network-related objects (col. 7, line 40

through col. 8, line 50; col. 17, lines 38 - 53);

associating each scope with a management customer, wherein each scope is

uniquely assigned to a management customer, wherein each scope is uniquely

associated with a set of configuration parameters for managing each scope (col. 13,

lines 10 - 25);

managing the distributed data processing system as a set of logical networks,

wherein a logical network comprises a set of scopes, and wherein each logical network

is uniquely assigned to a management customer (col. 13, line 14 through col. 14, line

30); and

allowing an administrative user to dynamically reconfigure logical networks within

the distributed data processing system (col. 16, line 56 through col. 17, line 37).

Regarding claim 2, Rochford discloses the method of claim 1 further comprising:

dynamically reconfiguring the distributed data processing system to introduce a new

scope by logically dividing a pre-existing scope (col. 11, lines 12 – 49; col. 18, lines 11 –

23).

Regarding claim 3, Rochford discloses the method of claim 2 wherein the new

scope is introduced without physically introducing a new network, system, or endpoint to

the distributed data processing system (col. 15, lines 6 - 20).

Regarding claim 4, Rochford discloses the method of claim 1 further comprising:

dynamically reconfiguring the distributed data processing system by logically moving a

scope between management customers (col. 11, lines 12 - 49).

Regarding claim 5, Rochford discloses the method of claim 1 further comprising: dynamically reconfiguring the distributed data processing system to introduce a new management customer (col. 11, lines 12 - 49).

Regarding claim 6, Rochford discloses the method of claim 5 wherein the new management customer is introduced without physically introducing a new network, system, or endpoint to the distributed data processing system (col. 11, lines 12 – 49; col. 18, lines 11 – 23).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7 – 8, 17 – 18, and 27 - 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rochford et al (US 6,633,312; hereinafter Rochford) in view of Hamner et al (US 5,960,439; hereinafter Hamner).

Regarding claim 7, Rochford discloses substantially all the limitations in claim 1, but fails to specifically disclose the steps of: dynamically discovering endpoints, systems, and networks within the distributed data processing system; correspondingly representing endpoints, systems, and networks within the distributed data processing system as a set of endpoint objects, system objects, and network objects; and logically organizing the endpoint objects, system objects, and network objects within a set of scopes, wherein each endpoint object, each system object, and each network object is uniquely assigned to a scope such that scopes do not logically overlap.

However, Hamner shows the steps of: dynamically discovering endpoints, systems, and networks within the distributed data processing system (col. 7, lines 43 – 76; col. 8, lines 1 – 45; Hamner discloses discovery manager 301); correspondingly representing endpoints, systems, and networks within the distributed data processing system as a set of endpoint objects, system objects, and network objects (fig. 5; col. 7, lines 6 – 40); and logically organizing the endpoint objects, system objects, and network objects within a set of scopes, wherein each endpoint object, each system object, and each network object is uniquely assigned to a scope such that scopes do not logically overlap (figs. 1 – 5; col. 4, line 66 through col. 5, line 33; col. 7, lines 6 – 40; col. 9, line 55 through col. 10, line 40).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Rochford by incorporating the steps of dynamically discovering endpoints, systems, and networks within the distributed data processing system; correspondingly representing endpoints, systems, and networks within the distributed data processing system as a set of endpoint objects, system objects, and network objects; and logically organizing the endpoint objects, system objects, and network objects within a set of scopes, wherein each endpoint object, each system object, and each network object is uniquely assigned to a scope such that scopes do not logically overlap as evidenced by Hamner for the purpose of providing more sophisticated capabilities for managing networks, thereby improving efficiency in a network management system.

Regarding claim 8, Rochford and Hamner disclose all the limitations in claim 7, and Hamner further discloses that the dynamic discovery is limited to a scope assigned to a particular management customer (figs. 1 – 4; col. 6, lines 50 – 67; col. 7, lines 6 - 30). See motivation applied in claim 7 above.

Claim 9 – 10, 19 – 20, and 29 - 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rochford et al (US 6,663,312; hereinafter Rochford) in view of Hougaard et al (US 6,216,130; hereinafter Hougaard).

Regarding claim 9, Rochford discloses substantially all the limitations in claim 1, but fails to specifically disclose the step of determining whether to allow a

reconfiguration operation requested by an administrative user in accordance with security authorization parameters associated with an administrative user.

However, Hougaard discloses an analogous geographic based information technology management system which shows the step of determining whether to allow a reconfiguration operation requested by an administrative user in accordance with security authorization parameters associated with an administrative user (col. 7, lines 1 – 62; col. 8, lines 7 - 29).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Rochford by determining whether to allow a reconfiguration operation requested by an administrative user in accordance with security authorization parameters associated with an administrative user as evidenced by Hougaard for the purpose of providing a secure and reliable network management system.

Regarding claim 10, Rochford and Hougaard disclose all the limitations in claim 9, and Hougaard further discloses the step of limiting reconfiguration operations requested by an administrative user to scopes assigned to a particular management customer (col. 7, lines 43 - 62). See motivation applied in claim 9 above.

Claims 11 – 30 incorporate substantially all the limitations of claims 1 - 10 in apparatus and computer program product forms, with minor modifications in the claimed language, rather than in method. The reasons for rejecting claim 1 – 10 apply to claims 11 – 30. Therefore, claims 11 – 30 are rejecting for the same reason.

Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to YVES DALENCOURT whose telephone number is

(571)272-3998. The examiner can normally be reached on M-F 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/YVES DALENCOURT/
Primary Examiner, Art Unit 2457